



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2020-0646; FRL-10025-28-Region 8]

**Approval and Promulgation of Implementation Plans; Utah; 2017 Base Year Inventories for the 2015 8-Hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Utah. The revision fulfills the base year inventory requirement for the 2015 8-hour ozone national ambient air quality standard (NAAQS) for the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front nonattainment areas (NAAs). Utah submitted the base year emissions inventories to meet, in part, the nonattainment requirements for Marginal ozone NAAs under the 2015 8-hour ozone NAAQS. EPA is taking this action pursuant to sections 110, 172, and 182 of the Clean Air Act (CAA).

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2020-0646. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lang, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-6709, email address: lang.matthew@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

The background for this action is discussed in detail in our April 1, 2021 proposal.<sup>1</sup> We proposed to approve the 2017 base year inventories for the 2015 8-hour ozone NAAQS for the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front Marginal NAAs because the State prepared the inventories in accordance with the requirements in sections 172(c)(3) and 182(a)(1)<sup>2</sup> of the CAA and its implementing regulations, including those at 40 CFR 51.1315. EPA is finalizing its proposed approval of Utah’s 2017 base year inventories for the 2015 8-hour ozone NAAQS for the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front Marginal NAAs. With this final rulemaking Utah will have met one of three requirements stemming from the Marginal nonattainment designation of the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front areas.

## **II. Response to Comments**

EPA held a 30-day comment period on the proposed rulemaking beginning on April 1, 2021 and closing on May 3, 2021. We received one supportive comment letter from the Utah Petroleum Association (UPA), which focused on the Uinta Basin NAA. Our response to UPA’s comment letter is below.

*Comment summary:* UPA states that it supports EPA’s approval of the base year inventory, specifically supports the choice of 2017 as the base year, and supports use of an

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<sup>1</sup> Approval and Promulgation of Implementation Plans; Utah; 2017 Base Year Inventories for the 2015 8-hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas, 86 FR 17106 (April 1, 2021).

<sup>2</sup> 42 U.S.C. 7502(c)(3), 7511a(a)(1).

emissions inventory from a National Emissions Inventory year. UPA also commends the Utah Division of Air Quality for its decision to include a separate oil and gas source category in the base year, which UPA says improves transparency of critical information needed to understand ozone formation in the Uinta Basin.

UPA also raises two areas of concern: (1) the lack of an opportunity to comment on the base year inventory for tribal lands within the Uinta Basin NAA; and (2) the need to be able to adjust the base year inventory based on evolving research and calculation methods. UPA explains that Utah's base year inventory includes only State-controlled lands, but tribal lands in the Uinta Basin include significant emissions sources, and UPA is not aware of any opportunity to comment on a base year inventory for the tribal lands. Further, UPA states that studies relevant to the emissions inventory are ongoing and recommends that EPA allow updates to the base year inventory to account for this evolving research. In particular, UPA states that such an update is important for determining the adequacy of future Reasonable Further Progress (RFP) emission reductions as well as for photochemical modeling.

*Response:* We thank UPA for the supportive comment letter and we agree with UPA that Utah's SIP revision included the appropriate base year and was otherwise based on the most current and accurate information available to the State at the time the inventories were developed. With respect to UPA's concern regarding a lack of opportunity to comment on an inventory for sources on tribal land, we note that an inventory of emissions from Indian country sources is outside of the scope of this rulemaking. As explained in EPA's proposed rule, and repeated above, EPA is approving Utah's SIP submission because the base year inventories therein accord with the requirements in sections 172(c)(3) and 182(a)(1) of the CAA and its implementing regulations, including those at 40 CFR 51.1315.

Similarly, we thank UPA for informing us of ongoing studies related to emissions in the Uinta Basin NAA. The inventories submitted by the State of Utah were based on the most current and accurate information available to the State at the time that the inventories were

developed. If, at any point in the future, Utah believes that a revision to the base year inventory is necessary, EPA is open to discussing that issue with the State.<sup>3</sup> At this time, however, EPA cannot determine whether any future updates to the current base year inventory would be necessary or appropriate, and such a determination is outside the scope of this rulemaking. We also note that, regardless of any possible update to the base year inventory, Utah is required to submit revised inventories every three years under section 182(a)(3)(A) of the CAA until the area is redesignated to attainment.<sup>4</sup>

### **III. Final Action**

EPA is finalizing approval of Utah's 2017 base year inventories for the 2015 8-hour ozone NAAQS for the Uinta Basin, Northern Wasatch Front, and Southern Wasatch Front Marginal NAAs because the State prepared the inventories in accordance with the requirements in sections 172(c)(3) and 182(a)(1) of the CAA and its implementing regulations, including those at 40 CFR 51.1315.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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<sup>3</sup> EPA generally acknowledges that in certain circumstances, updating an already-approved base year inventory may be appropriate. *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations*, May 2017, 42 ("In the event that updated [Rate of Progress/Reasonable Further Progress] plan(s) are needed after initial submittal to meet the requirements of the Ozone Implementation Rule, the [Rate of Progress/Reasonable Further Progress] baseline NAA inventory may also need to be updated.").

<sup>4</sup> 42 U.S.C. 7511a(a)(3)(A).

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 25, 2021.

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Debra H. Thomas,  
Acting Regional Administrator,  
Region 8.

For the reasons set forth above, 40 CFR part 52 is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart TT—Utah**

2. In §52.2320, the table in paragraph (e) is amended by adding an undesignated center heading and the entry “Ozone (8-hour, 2015) Uinta Basin, Northern Wasatch Front and Southern Wasatch Front 2017 Base Year Inventories” at the end of the table to read as follows:

#### **§52.2320 Identification of plan.**

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(e) \* \* \*

<b>Rule title</b>	<b>State effective date</b>	<b>Final rule citation, date</b>	<b>Comments</b>
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<b>Summary of Criteria Pollutant Attainment Plans</b>			
Ozone (8-hour, 2015) Uinta Basin, Northern Wasatch Front and Southern Wasatch Front 2017 Base Year Inventories	7/29/2020	[insert date of publication in the Federal Register], [insert Federal Register citation]	

[FR Doc. 2021-14195 Filed: 7/2/2021 8:45 am; Publication Date: 7/6/2021]